

# BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

<b>IN THE MATTER OF THE APPLICATION FOR AN ORDER ESTABLISHING A NATURAL GAS UTILITY, AND TO ESTABLISH INITIAL NATURAL GAS TRANSPORTATION RATES FOR NORTHERN STATES POWER COMPANY</b>	) ) ) ) ) )	<b>FINDINGS OF FACT AND CONCLUSIONS OF LAW; NOTICE OF ENTRY OF ORDER</b>
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**NG97-021**

On December 16, 1997, Northern States Power Company - South Dakota (NSP- SD), filed with the Public Utilities Commission (Commission) an application for an order establishing a natural gas local distribution utility, and to establish initial natural gas transportation rates. The initial rate will allow NSP-SD to serve the new Hutchinson Technology, Inc. (HTI) facility in the Sioux Empire Development Park Number 5 in eastern Sioux Falls, South Dakota, through a new lateral pipeline. HTI had contacted NSP-SD and requested the proposed service. The proposed tariff, rate schedule, and form of service agreement would establish NSP-SD as a regulated utility in the state of South Dakota, subject to Commission jurisdiction. The proposed maximum rate is a volumetric rate per Mcf with a per month fixed customer service charge. At the time of filing, only HTI was affected by the proposed rate and tariff. The HTI plant was expected to be in commercial operation in February of 1998. NSP-SD also requested that the Commission waive the tariff schedule arrangement and form of tariff rules found at ARSD 20:10:13:04 and 20:10:13:05. NSP-SD further requested waiver of any other Commission rules necessary to allow the tariff and rate to be effective on the date requested. NSP-SD has further requested the Commission to approve the proposed initial rate, subject to refund and subject to hearing, within 30 days following the date of the filing.

At its regularly scheduled meeting of January 8, 1998, the Commission ordered that, pursuant to SDCL 49-1A-8, NSP-SD shall be assessed a filing fee as requested by the executive director up to the statutory limit of \$100,000 and February 9, 1998, was established as the deadline for intervention. The Commission took under advisement the request by NSP-SD to permit it to flow gas to its one customer, HTI. On January 12, 1998, at a duly noticed ad hoc meeting, the Commission unanimously voted to allow NSP-SD to flow gas through its pipeline, subject to refund, in order to accommodate its customer, HTI. Commissioner Schoenfelder also asked for clarification as to whether the Commission has jurisdiction to regulate NSP-SD as a gas utility. Intervention was granted to MidAmerican Energy. An intervention request was also received from PAM Natural Gas (PAM). The Commission requested that PAM refile its request for intervention to clarify the filing. On February 23, 1998, PAM filed another request for intervention.

On April 7, 1998, NSP-SD filed an amended application requesting that the title of the application be amended to allow it to seek to be regulated as a gas utility. On April 15, 1998, MidAmerican Energy filed an amended motion to intervene based on NSP-SD's amended application. On April 22, 1998, at its regularly scheduled meeting, the Commission found it had jurisdiction. It also granted intervention to MidAmerican Energy and PAM.

By order dated November 18, 1999, a procedural schedule was set and a hearing was scheduled for 1:30 p.m., on Monday, January 4, 1999, in Room 412, State Capitol Building, 500 East Capitol, Pierre, South Dakota. The hearing was held as scheduled and briefs were

filed following the hearing.

At its April 26, 1999, meeting, the Commission unanimously voted to grant the application and the request to waive ARSD 20:10:13:04 and 20:10:13:05. Based on the evidence of record, the Commission makes the following findings of fact and conclusions of law:

### **FINDINGS OF FACT**

1. On December 16, 1997, NSP-SD filed with the Commission an application for an order establishing a natural gas local distribution utility and initial natural gas transportation rates. Exhibit 1. NSP-SD also requested that the Commission waive the tariff schedule arrangement and form of tariff rules found at ARSD 20:10:13:04 and 20:10:13:05. Id.
2. On April 7, 1998, NSP-SD filed an amended application requesting that the title of the application be amended to allow it to seek to be regulated as a gas utility. Exhibit 2.
3. In 1994, a natural gas pipeline was constructed by NSP's Generation Business Unit to provide fuel delivery for the new combustion turbines being installed at the Angus C. Anson Generating Site. Exhibit 2 at 3. The pipeline consists of a 12 inch pipe and is 13 miles long. Id. at 3-4.
4. In 1997, NSP-SD constructed a 3.5 mile long, 4.5 inch diameter steel lateral pipeline from the Angus C. Anson natural gas fuel supply pipeline to the Hutchinson Technologies, Inc. facility in the Sioux Empire Development Park located in Sioux Falls, South Dakota. Id. at 4. This pipeline will be referred to as the Hutchinson Lateral. Subsequently, NSP- SD began to serve two other customers, the Minnehaha County Highway Department and the Jans Corporation. Exhibit 9 at 2.
5. In its application, NSP-SD proposed a Gas Transportation Service Tariff containing the rates and conditions of service. Exhibit 1. NSP-SD proposed maximum rates with a levelized annual revenue requirement. Exhibit 5 at 2.
6. Commission staff proposed changes to the rates, terms, and conditions of service in its prefiled testimony. Exhibits 6 and 7. In response to Commission staff's proposed changes contained in its prefiled testimony, NSP-SD made a number of changes to its proposed tariff. Exhibit 9.
7. At the hearing, James Smith, a witness for NSP-SD stated that NSP-SD adopted the methodology for rates as proposed by Commission staff. Tr. at 67. Robert Knadle, Commission staff analyst, stated that NSP-SD had agreed to the changes he proposed in his rebuttal testimony. Tr. at 124. Mr. Knadle also revised his testimony based on updates provided to Commission staff after staff had filed its testimony. Tr. at 116-122. Following the hearing, NSP-SD submitted another proposed tariff which contained additional changes. See Gas Transportation Service Tariff SDPUC NO. 1, Original Sheet No. 1 through Original Sheet No. 27, inclusive (attached to Applicant's Opening Brief, dated February 8, 1999).
8. Following the filing of the updated tariff, Commission staff recommended approval of the tariff. Commission Staff Brief at 2.
9. The Commission finds that the rates in the proposed tariff are just and reasonable.

However, because this is a start-up facility where estimates were used to set the rates, the Commission finds that NSP-SD shall update its cost of service numbers in May of 2000 with calendar year 1999 numbers. Commission staff shall review the filing and, based on its analysis, may petition the Commission to determine whether the tariffed rate is unreasonable, insufficient, or unjustly discriminatory. See SDCL 49-34A-26.

10. The Commission finds that the terms and conditions in the proposed tariff are just and reasonable. With respect to the issue of whether NSP-SD should provide transportation services to others for resale over its facilities, the Commission finds that it will decide this issue when a reseller actually requests to become a customer of NSP-SD or in a separate proceeding in order to allow other interested parties an opportunity to comment.

11. The Commission also finds that on the issue of system exit charges, the reference to the "facility extension" contained in the Gas Transportation Agreement means only that portion of the facility that is built from the Hutchinson Lateral to the customer-owned facility. See Gas Transportation Service Tariff SDPUC NO. 1, Original Sheet No. 24 (attached to Applicant's Opening Brief, dated February 8, 1999).

12. The Commission therefore approves the following tariff sheets: Gas Transportation Service Tariff SDPUC NO. 1, Original Sheet No. 1 through Original Sheet No. 27, inclusive (attached to Applicant's Opening Brief, dated February 8, 1999).

13. The Commission further finds that NSP-SD is an intrastate natural gas pipeline utility providing gas service through the sale of transportation services. See SDCL 49-34A-1(8), (9), and (9A).

14. The Commission finds good cause to waive the tariff schedule arrangement and form of tariff rules found at ARSD 20:10:13:04 and 20:10:13:05.

### **CONCLUSIONS OF LAW**

1. The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-34A, specifically 1-26-17.1, 49-34A-4, 49-34A-6, 49-34A-8, 49-34A-10, 49-34A-11, 49-34A-12, 49-34A-13, 49-34A-13.1, 49-34A-17, 49-34A-19, and 49-34A-21.

2. The Commission finds that NSP-SD is an intrastate natural gas pipeline utility providing gas service through the sale of transportation services. See SDCL 49-34A-1(8), (9), and (9A).

3. The Commission finds that NSP-SD's proposed tariff sheets are fair and reasonable and are approved. See Gas Transportation Service Tariff SDPUC NO. 1, Original Sheet No. 1 through Original Sheet No. 27, inclusive (attached to Applicant's Opening Brief, dated February 8, 1999).

4. The Commission finds good cause to waive the tariff schedule arrangement and form of tariff rules found at ARSD 20:10:13:04 and 20:10:13:05.

It is therefore

ORDERED, that NSP-SD's proposed tariff sheets filed as Gas Transportation Service Tariff SDPUC NO. 1, Original Sheet No. 1 through Original Sheet No. 27, inclusive (attached to

Applicant's Opening Brief, dated February 8, 1999) are fair and reasonable and are approved and that ARSD 20:10:13:04 and 20:10:13:05 are hereby waived.

### NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 12th day of May, 1999. Pursuant to SDCL 1-26-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

Dated at Pierre, South Dakota, this 12th day of May, 1999.

#### CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: \_\_\_\_\_

Date: \_\_\_\_\_

(OFFICIAL SEAL)

#### BY ORDER OF THE COMMISSION:

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JAMES A. BURG, Chairman

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PAM NELSON, Commissioner

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LASKA SCHOENFELDER,  
Commissioner